

REMARKS

Applicant acknowledges with gratitude that the terminal disclaimers filed relative to U.S. Patent Nos. 5,928,572, and 6,248,263 have been accepted and duly recorded.

Applicant further acknowledges with gratitude that the objections to claims 3-69 and 51 have been overcome by amendment.

Pursuant to the Examiner's recommendation in the Office Action dated September 8, 2008, Applicant has petitioned the USPTO to accept an unintentionally delayed benefit claim under 35 U.S.C. §119/120 – which is attached hereto as Exhibit A. As such, it appears that the USPTO will grant the same, thereby availing Applicant of the benefits associated with the petitioned filing date. However, inasmuch as Applicant is waiting for the USPTO's decision on the petition, Applicant respectfully requests, as an overture of professional courtesy, that the present case be acted upon only after the petitions division has rendered its decision.

Claims 3-69 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,679,283 (hereinafter the '283 patent) issued to Tonar, claims 3-53, 54-56, 58-59, 61-62, 64-65, and 67-69 have been rejected under 35 U.S.C. §102(b) as being anticipated by EP 612826 (hereinafter the '826 reference), and claims 54, 57, 60, 63, 66, and 69 have been rejected under 35 U.S.C. §103(a) as being unpatentable over the '826 reference. Inasmuch as Applicant has petitioned the USPTO per Exhibit A, Applicant respectfully submits that the above-identified rejections should be deemed improper until the petitions division has rendered its decision relative to the priority date of the present application. For purposes of completeness, Applicant hereby incorporates by reference and restates its traversal of the above-identified rejections in its response dated June 19, 2008.

In light of the foregoing, Applicant respectfully submits that the application is in *prima*

facie condition for examination after the petitions office rendered its decision on the priority date.

If any other charges or fees must be paid or credited in connection with this communication, they may be paid out of our Deposit Account No. 50-2131.

Should anything further be required a telephone call to the undersigned is respectfully solicited.

Respectfully submitted,

KING & PARTNERS, PLC

Dated: 3.9.09

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